

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JOHN O. MYERS, )  
 )  
Plaintiff, )  
 )  
vs. ) 2007 CIV.  
 ) 04078  
 ) (RJH) (GWG)  
HSBC INVESTMENTS (USA) INC., )  
HSBC NORTH AMERICA HOLDINGS )  
INC., HSBC SECURITIES (USA) )  
INC., HSBC FINANCE CORPORATION;) )  
and HSBC HOLDINGS, PLC, )  
Defendants. )

-----)

DEPOSITION OF RICHARD PALMER  
New York, New York  
Wednesday, February 27, 2008

Reported by:  
Philip Rizzuti  
JOB NO. 15483A

February 27, 2008

9:00 a.m.

Deposition of RICHARD PALMER,  
held at the offices of Fensterstock &  
Partners, LLP, 30 Wall Street, New  
York, New York, pursuant to notice,  
before Philip Rizzuti, a Notary Public  
of the State of New York.

A P P E A R A N C E S:

FENSTERSTOCK & PARTNERS, LLP

Attorneys for Plaintiff

30 Wall St.

New York, New York 10005

BY: BLAIR FENSTERSTOCK, ESQ.

BROOK HALEY, ESQ.

SCHNADER HARRISON SEGAL & LEWIS, LLP

Attorneys for Defendants

140 Broadway

New York, New York 10005-1101

BY: M. CHRISTINE CARTY, ESQ.

ALSO PRESENT:

LETITIA SMITH, Paralegal,

1  
2 IT IS HEREBY STIPULATED AND AGREED,  
3 by and between counsel for the respective  
4 parties hereto, that the filing, sealing and  
5 certification of the within deposition shall  
6 be and the same are hereby waived;

7 IT IS FURTHER STIPULATED AND AGREED  
8 that all objections, except as to the form  
9 of the question, shall be reserved to the  
10 time of the trial;

11 IT IS FURTHER STIPULATED AND AGREED  
12 that the within deposition may be signed  
13 before any Notary Public with the same force  
14 and effect as if signed and sworn to before  
15 the Court.  
16  
17  
18  
19  
20  
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Palmer

R I C H A R D P A L M E R, called as a  
witness, having been duly sworn by a  
Notary Public, was examined and  
testified as follows:

EXAMINATION BY

MR. FENSTERSTOCK:

Q. Good morning, Mr. Palmer, can you  
state your name for record.

A. Good morning, Mr. Fensterstock, my  
name is Richard B. Palmer.

Q. What is your occupation?

A. I am an attorney with HSBC  
Securities USA Inc.

Q. What is your home address?

A. 281 West Avenue, Darien,  
Connecticut.

Q. How long have you been an  
attorney?

A. I graduated law school in 1997, I  
was admitted to the bar in the State of New  
York in February or so of 1998.

Q. What is your educational  
background, college, law school?

A. Graduated from Cornell University,

1 Palmer

2 carry them back and forth, I guess we have the  
3 originals.

4 MS. CARTY: All right.

5 Q. Did there come a point in time  
6 where you saw a copy of this letter?

7 A. Yes.

8 Q. Who showed it to you?

9 A. I don't remember.

10 Q. Did you read it?

11 A. Yes, sir.

12 Q. Who is Thuy Nguyen?

13 A. Ms. Nguyen was a human resources  
14 vice president who covered the asset  
15 management group.

16 Q. Is she no longer at HSBC?

17 A. She is no longer with HSBC.

18 Q. Do you know where she is?

19 A. No.

20 Q. Do you know why she left?

21 A. Yes.

22 Q. Why?

23 A. I believe that -- I think she was  
24 let go in early 2007. I don't remember if she  
25 resigned or HR let her go for certain --

Palmer

RQ Q. I asked for Ms. Thuy Nguyen's last known address, we will put it in a letter obviously?

MS. CARTY: I think you already have it.

MR. FENSTERSTOCK: We already have it.

MS. CARTY: I think you already have it, maybe you don't?

MR. FENSTERSTOCK: Or maybe I don't know. We will find out and I will tell you.

Q. Who is -- I think you testified that Nancy Walsh is also in HR?

A. Yes.

Q. Did Ms. Nguyen show you this letter?

A. I don't remember.

Q. Did you --

A. I don't remember, she or somebody else in HR forwarded it to me, and I don't remember how I received it either.

Q. Do you recall stating that nothing in the letter was flatly wrong?

1 Palmer

2 A. Do I recall it; no, but I have  
3 seen it in your complaint.

4 Q. Do you deny that you ever stated  
5 that quote: Nothing in the letter was flatly  
6 wrong?

7 A. I can't deny that, I just don't  
8 remember our conversation specifically enough.

9 Q. Do you recall stating that the  
10 group described in the letter was a mirror  
11 image of Mr. Myers eliminated group?

12 MS. CARTY: Objection to the form  
13 of the question.

14 A. Stating that to you?

15 Q. To anybody?

16 A. Well, I will limit it to my  
17 conversation with you. I don't remember. I  
18 don't remember ever saying that it was a  
19 mirror image, but I just don't recall.

20 Q. So you don't deny it?

21 A. I don't deny what?

22 Q. That you said that the group  
23 described in the letter was a mirror image of  
24 Mr. Myers eliminated group?

25 MS. CARTY: Objection to the form



1 Palmer

2 of the question.

3 A. I can't deny it, I just don't  
4 remember.

5 Q. You don't deny that you ever  
6 stated that the mirror image group was similar  
7 in scope to Mr. Myers group, but with a  
8 broader range of products; correct?

9 MS. CARTY: Objection to the form  
10 of the question.

11 A. I can't deny that I said that. I  
12 just don't recall. I don't recall our  
13 conversation which took place roughly a year  
14 ago.

15 Q. When you talk about our  
16 conversation, was that a phone conversation?

17 A. Yes.

18 Q. You recall that Ms. Walsh was on  
19 that telephone call?

20 A. I don't recall that.

21 Q. But you don't deny that Ms. Walsh  
22 was on that phone call?

23 A. I don't know if she was or not.  
24 It is my practice not to speak on the  
25 speakerphone, especially with another

1 Palmer

2 attorney, I usually pick up the phone or I  
3 tell the other attorney that somebody was on  
4 the line. I don't recall Nancy being on the  
5 line. She may have been in my office because  
6 I know I talked to her shortly before I talked  
7 to you, but I don't remember her being on the  
8 call.

9 Q. What did you speak about with  
10 Ms. Walsh before you spoke with me?

11 A. I am not going to answer.

12 Q. Based on?

13 A. Privilege. In general the focus  
14 would have been on what I was going to talk to  
15 you about and Mr. Myers, and my view of your  
16 letter. But let me just --

17 MS. CARTY: Wait for him to ask a  
18 question.

19 A. I really don't remember, I may be  
20 speculating on that. I really don't recall  
21 for certain if Nancy was in my office at the  
22 time or immediately beforehand. I know at  
23 some point I talked to her on that topic that  
24 I just mentioned.

25 Q. Do you recall how close in time to

1 Palmer

2 your conversation with me that you spoke to  
3 Nancy Walsh?

4 A. No.

5 Q. If I told you that in that phone  
6 call you started on the squawk box with  
7 Ms. Walsh in your office, and then you picked  
8 up the phone and we had a further  
9 conversation, at which point there was no way  
10 for me to know obviously that Ms. Walsh was in  
11 your office or not, does that refresh your  
12 recollection?

13 A. It does not. I just don't recall.

14 Q. Do you recall my telling you that  
15 there was another person from my office also  
16 on the phone?

17 A. I don't recall.

18 Q. Do you recall if I was on the  
19 squawk box or on the telephone?

20 A. No, I don't recall.

21 Q. At some point did you assure  
22 Mr. Myers or his representative that will be  
23 would pay for Mr. Myers COBRA through the end  
24 of March 2007?

25 A. Could you repeat the question,

1 Palmer

2 please.

3 Q. At some point did you assure  
4 Mr. Myers or his representative that HSBC  
5 would pay for Mr. Myers COBRA through the end  
6 of March 2007?

7 A. I believe that is right, I  
8 remember talking with you and/or Brook about  
9 his COBRA coverage and that we would pick it  
10 up for a period of months. I don't remember  
11 the exact dates. I think it was three months.

12 Q. You discussed one conversation you  
13 had with me. Do you recall having further  
14 conversations with Brook?

15 A. I don't recall any conversations  
16 specifically. I know that I had more than one  
17 conversation with your office, but actually I  
18 want to clarify that. It may have been via  
19 E-mail. I don't remember if it was over the  
20 phone or E-mail. There was more than one  
21 conversation with your office.

22 Q. Those conversations had to do with  
23 COBRA and post termination privileges?

24 A. One question at a time. I know  
25 that they had to do with COBRA. Post

Palmer

termination privileges; I believe that I also said that I would waive any requirement that he sign the release for both COBRA and for use of outplacement.

Q. At some point in time there was a screw up on COBRA by HSBC; is that correct?

A. I believe that is right.

Q. As a result of HSBC's screw up, and excuse my French, on COBRA, Mr. Myers was forced to pay some money to have COBRA in effect; isn't that correct?

MS. CARTY: Objection to the form of the question.

A. I don't know about Mr. Myers paying any money, but I will agree with your French that there was a screw up on his COBRA, and you told me that in the past.

Q. At some point you knew that Mr. Myers had -- strike that.

At some point you knew that Mr. Myers' wife was traveling, she tried to get a prescription, she found out that she didn't have any medical insurance?

A. I remember somebody, either you or

1 Palmer

2 one of your other attorneys here relaying that  
3 to me. Something similar to that, I don't  
4 remember exactly.

5 Q. The reason she didn't have medical  
6 insurance was because HSBC had quote: Screwed  
7 up and not followed through with your promise  
8 relative to COBRA; is that correct?

9 MS. CARTY: Objection of the  
10 question.

11 A. You know, I guess. I don't know  
12 exactly what the mechanics were, but I know he  
13 didn't have the COBRA coverage and I know I  
14 told your office that we would get it for him.  
15 I don't remember the timing or what the  
16 problems were.

17 Q. Let me show you a document that we  
18 marked as Plaintiff's Exhibit 78, document  
19 numbered JM-P 00737 through 738.

20 (Plaintiff's Exhibit 78, document  
21 numbered JM-P 00737 through 738,  
22 marked for identification, as of this  
23 date.)

24 Q. Do you recognize Plaintiff's  
25 Exhibit 78?

1 Palmer

2 A. Yes, sir.

3 Q. What is it?

4 A. It is an E-mail from me to Brook  
5 K. Haley, and yourself regarding HSBC doing  
6 its best to rectify his COBRA difficulties,  
7 Mr. Myers COBRA difficulties.

8 Q. Was Thuy Nguyen if you know  
9 terminated -- strike that.

10 Was Thuy Nguyen's termination in  
11 any way related to Mr. Myers or Mr. Myers  
12 termination or any decisions relative to  
13 Mr. Myers COBRA coverage?

14 MS. CARTY: Objection to the form  
15 of the question.

16 A. I don't know, I wasn't involved in  
17 that decision. I never heard that it was.

18 Q. You will agree that at some point  
19 Mr. Myers COBRA coverage was terminated by  
20 HSBC prematurely?

21 MS. CARTY: Objection to the form  
22 of the question.

23 A. No, I don't think I can agree to  
24 that as stated.

25 Q. What is wrong with the statement?

Palmer

further questions, thank you.

MS. CARTY: No questions.

(Time noted: 11:06 a.m.)

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RICHARD PALMER

Subscribed and sworn to before me

this \_\_\_\_ day of \_\_\_\_\_, 2008

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C E R T I F I C A T E

STATE OF NEW YORK )

: SS.

COUNTY OF NEW YORK )

I, Philip Rizzuti, a Notary  
Public within and for the State of New  
York, do hereby certify:

That RICHARD PALMER, the witness  
whose deposition is hereinbefore set forth,  
was duly sworn by me and that such  
deposition is a true record of the  
testimony given by the witness.

I further certify that I am not  
related to any of the parties to this  
action by blood or marriage, and that I am  
in no way interested in the outcome of this  
matter.

IN WITNESS WHEREOF, I have  
hereunto set my hand this 10th day of March,  
2008.

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PHILIP RIZZUTI